

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DANIEL KAPETAN,

Petitioner,

vs.

UNITED STATES DISTRICT COURT,

Respondent.

3:10-cv-00512-LRH-VPC

ORDER

On August 19, 2010, the Clerk of Court opened this action as a *pro se* action for a writ of habeas corpus by a state prisoner pursuant to 28 U.S.C. § 2254. The document initiating this action is a motion to proceed *in forma pauperis*. (Docket #1). The motion to proceed *in forma pauperis* was not submitted on the proper form for prisoners seeking *in forma pauperis* status in this District. More importantly, no petition was submitted. Unless an issue of federal constitutional or statutory law is implicated by the facts presented, there is no cognizable claim under federal habeas corpus. *Estelle v. McGuire*, 502 U.S. 62, 68 (1991). As there is no petition filed in this action, it will be dismissed, without prejudice to filing a petition as a new action.

IT IS THEREFORE ORDERED that this action is **DISMISSED**, without prejudice, for failure to present a habeas corpus petition.

IT IS FURTHER ORDERED that all pending motions, including the application to proceed *in forma pauperis* (Docket #1), are **DENIED**.

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1 **IT IS FURTHER ORDERED** that petitioner may file a petition, but any such petition must
2 be opened as a new action/case. **No further documents shall be filed in this case.**

3 **IT IS FURTHER ORDERED** that the Clerk of Court shall enter judgment accordingly.

4 DATED this 15th day of September, 2010.



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9 LARRY R. HICKS
10 UNITED STATES DISTRICT JUDGE
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